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April 2, 2007

***Via ECF Filing***

The Honorable F. Dennis Saylor  
Harold D. Donohue Federal Bldg and  
United States Courthouse  
595 Main Street  
Worcester, MA 01608-2025

Re: *Allen v. Martin Surfacing, et al.*  
Civil Action no. 05-40048-FDS

Dear Judge Saylor:

I write on behalf of both parties in this action.

Counsel have conferred in advance of our status conference scheduled for Wednesday, April 4 at 3pm, and respectfully submit the below proposed schedule and protocol for expert discovery and related (*Daubert*) motion practice for the Court's consideration.

This schedule takes into account counsel's collective experience in environmental tort expert discovery and *Daubert* practice scheduling issues, including issues in scheduling experts for deposition during summer months, and also the time required to properly brief complex scientific/medical matters.

We look forward to addressing this proposal with the Court on April 4.

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Date	Event
June 1, 2007	Plaintiff and Defendant disclose Rule 26 expert reports and materials <sup>1</sup>
July 1, 2007	Plaintiff and Defendant disclose supplemental and/or rebuttal reports as per Rule 26
July – August 2007	Plaintiff and Defendant will cooperate to make experts available for deposition (where possible, plaintiff's experts are deposed first unless otherwise by agreement) <sup>2</sup>
September 30, 2007	Deadline for filing <i>Daubert</i> motions to preclude expert testimony
October 30, 2007	Deadline for filing oppositions to <i>Daubert</i> motions
November 15, 2007	Deadline for filing replies to oppositions to <i>Daubert</i> motions (10-page limit)
November 15, 2007	Status Conference to discuss nature and scope of <i>Daubert</i> hearing, including extent to which live testimony will be heard and presentation of same
Late November/ December 2007	<i>Daubert</i> hearing

Sincerely,


 James Gotz (Counsel for Plaintiff)

Copy To: Counsel of Record

<sup>1</sup> The parties shall disclose the following: expert report; current CV; prior testimony and rates all as per Rule 26; in addition, parties shall provide copies of all literature specifically referenced in reports (medical records of Mr. Allen and documents from Martin Surfacing or Holy Cross as referenced in reports need not be produced unless requested in good faith); parties shall respond to all reasonable requests for copies of articles listed in an expert's CV that cannot otherwise be obtained through reasonable efforts; parties shall provide all notes prepared by expert and communications with other experts, but not drafts of reports or communications with counsel; finally, parties shall produce copies of transcripts of expert's former testimony if same are in possession and readily accessible by expert or counsel.

<sup>2</sup> Deposition shall take place at a date, time and place convenient to the expert unless otherwise agreed; deposition may not exceed 6 hours of actual testimony time; parties shall be responsible for paying their own expert's expenses and time in connection with the preparation of their reports and depositions.